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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,136	04/14/2004	Charles Bolta	B012.PAT-4	6447
7590	09/20/2005		EXAMINER	
Emery L. Tracy P.O. Box 1518 Boulder, CO 80306-1518			TANG, SON M	
			ART UNIT	PAPER NUMBER
			2632	

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/824,136	BOLTA, CHARLES
	<b>Examiner</b>	<b>Art Unit</b>
	Son M. Tang	2632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 14 April 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 14 April 2005 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(à).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the limitations claimed in claims 7 and 17 “wherein the first and second lights beams are adjustable and angled” and claim 10 “the housing edge is attachable in a folded down storage position latchable in a ninety degrees position” must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 2 and 4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 2: the claimed “custom electronic modules sized and shaped for being received the battery compartment”, it is unclear of how the electronic modules housing the battery compartment? Is the battery compartment same as a battery housing? It may should be appeared that modules being received next to the battery compartment.

In claim 4: The claimed “an optical power on switch on the housing for progressively activating additional power as ambient light dims.” It is unclear that where is the additional power come from? And whether the emergency lamp is already activated prior to additional power switch on as ambient light dims? or the emergency lamp starts activate when ambient light dims.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 1-5 and 11-13** are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamabe [US 5,952,916] in view of Brain [US 5,034,847].

**Regarding claims 1 and 4:** Yamabe discloses an emergency lamp comprising:

-a hand-held housing having a first end (6) and second end (H);  
-at least one light emitting source (19) within the housing (10);  
-power means (battery 24) mounted within the housing for illuminating the light emitting source [as shown in Fig. 1, 5-8, col. 5, lines 35-67], Yamabe does not specifically disclose an activation means for activating power means only during ambient low light conditions. Brain teaches a portable light beacon comprises an ambient light sensor (34) for activating power means only during ambient low light conditions [see Fig. 4, 6-7 and col. 3, lines 54-68 to col. 4, lines 1-4]. It would have been obvious of one having ordinary skill in the art at the time of the claimed invention, to implement an ambient light sensor as taught by Brain into the emergency lamp of Yamabe for the purpose of conserving energy.

**Regarding claim 2:** Yamabe and Brain disclose all the limitations as described above, Yamabe further discloses a battery housing (25) formed within the housing; and custom electronic modules (light controller 26 and alarm controller K) sized and shaped for being received the battery compartment [as shown in Fig. 5, col. 5, lines 1-15].

**Regarding claim 3:** Yamabe and Brain disclose all the limitations as described above, Yamabe further discloses that the electronic modules are emergency locator beacon (LEDs 23) and a theft transmitter (met by alarm buzzer K).

**Regarding claim 5:** Yamabe and Brain disclose all the limitations as described above, Brain further teaches that the light emitting source is an LED light [see col. 3, lines 54-63]. It would have been obvious of one having ordinary skill in the art at the time of the claimed invention, to use LED light for an advantage of enhancing light emitting and power consumption.

**Regarding claim 11:** Yamabe and Brain disclose all the limitations as described above, Yamabe further discloses wherein the power means (batteries 24) are positioned in the approximate center of the housing [see Fig. 6].

**Regarding claim 12:** Yamabe and Brain disclose all the limitations as described above, Yamabe further discloses that the power means are rechargeable batteries [see col. 11, lines 23-26], except for not specifically disclose that the batteries are selected from the group of 1.2 volt and 1.5 volt. Since, 1.2v and 1.5v are known as conventional batteries use for flashlight. Therefore, it would have been obvious of one having ordinary skill in the art at the time of the claimed invention, to use any appropriate conventional known voltage battery for the device including 1.5v as claimed.

**Regarding claim 13:** Yamabe and Brain disclose all the limitations as described above, Yamabe further discloses that the power means are activated by a signal from a source emergency button (31, 45), whereby, the buttons being depressed to activate emergency lamp whenever it needed in an emergency situation.

6. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamabe in view of Brain and further in view of Landamia [US 6,206,541].

**Regarding claim 6:** Yamabe and Brain disclose all the limitations as described above, except for not specifically teach a second light mounted at the second end of the housing; wherein light is simultaneously emitted from the first end and second end of the housing, Landamia teaches an emergency flashlight comprises a second light (37) mounted at the second end (36) [see Fig. 5, col. 3, lines 54-67]. It would have been obvious of one having ordinary skill

in the art at the time of the claimed invention, to have an additional light at the a second end as taught by Landamia for the purpose of enhancing more light.

**Regarding claim 7:** Yamabe and Brain disclose all the limitations as described above, except of not specifically teach that the lights have beams which are adjustable and angled, Landamia further teaches that light source beam (29) is adjustable [col. 3, lines 35-39] and angled by a swivel head (34) [see Fig. 2, col. 3, lines 43-45], Landamia does not specify that the second light beam is adjustable and angled, since the light beam is capable to adjust and angled, it would have been obvious to one having ordinary skill in the art to recognize that the second light beam would also be able to adjust and angled as the user desired.

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yamabe in view of Brain and further in view of Bordak [US 6,000,811].

**Regarding claim 8:** Yamabe and Brain disclose all the limitations as described above, except for not specifically teach that the housing has tapered ends, Bordak teaches an emergency light assembly comprises a housing has tapered ends (20, 22) [see Fig. 1]. It would have been obvious of one having ordinary skill in the art at the time of the claimed invention, that the housing has tapered ends as taught by Bordak, for the purpose of artistic reference.

8. Claims 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamabe in view of Brain and further in view of McMillan et al. [US 6,308,355].

**Regarding claims 9-10:** Yamabe and Brain disclose all the limitations as described above, Yamabe further discloses a housing has a hammer glass breaker and belt cutter, except for

not disclose a diamond glass cutter edge, McMillan et al. indicated that folding blades for cutting glass as a serrated glass cutter is known in the art of emergency tool [see col. 1, lines 35-39] and further teach that a multipurpose tool 20 can be used as a shovel lip which met by a pry bar [see Abstract line 6], although McMillan does not mention that glass cutter is a diamond cutter edge. Since, diamond cutter edge is known for cutting glass, thus, as long as the glass is being cut, using any known glass cutter such as a known diamond cutter edge for performing the same function is not constitute an inventive step but it is obvious of matter of design choice. It would have been obvious of one having ordinary skill in the art at the time of the claimed invention, to implement a known folding glass cutter edge as indicated by McMillan et al. in the housing of combination above, in order to provide an additional convenience emergency tool in the same housing.

9. Claims 14-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamabe in view of Landamia [US 6,206,541] and further in view of Brain [US 5,034,847].

**Regarding claim 14:** Yamabe discloses a non-tethered portable lighting apparatus for providing light during a predetermined event, such as accident [see Fig. 7-8, col. 6, lines 35-55] comprising:

-case (4) [Fig. 12] having a housing portion (2) and an insert portion (30) receivable within the housing portion, the housing portion and the insert portion each having a first end (6) and second end (H);

-an electronics (26 and K) and battery module pack (25) mounted in the approximate center of the insert portion (30) between the first end and the second end of the insert portion, the

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electronics and battery module pack receivable within the housing portion [see Fig. 1-6 and 8-12], a first lens holder (20) mounted adjacent the first end of the insert portion [see Fig. 5], Yambe does not specifically disclose a second lens holder mounted at the second end of the insert portion, Landamia teaches an emergency flashlight comprises a second light (37) mounted at the second end (36) [see Fig. 5, col. 3, lines 54-67]. It would have been obvious of one having ordinary skill in the art at the time of the claimed invention, to have an additional light at the a second end as taught by Landamia for the purpose of enhancing more light.

Yamabe also not specifically disclose that first and second lights are LED lights and providing light during a predetermined event such as ambient light dims, Brian teaches a water proofed and sealed portable light beacon apparatus [see Fig. 6-7] for providing light during a low ambient light and light (32) is a LED light [col. 3, lines 54-68 to col. 4, lines 1-6]. It would have been obvious of one having ordinary skill in the art at the time of the claimed invention, to implement a light sensor (34) for providing light during low ambient light and use LED light for light source as suggested by Brian in the light apparatus of Yamabe, for the purpose of enhancing emitting light and conserve energy.

Regarding claim 15: Refer to the rejection of claim 3 above.

Regarding claim 16: Refer to the rejection of claim 4 above.

Regarding claim 17: Refer to the rejection of claim 7 above.

Regarding claim 18: Refer to the rejection of claim 8 above.

Regarding claim 19: Refer to the rejection of claim 9 above.

Regarding claim 20: Refer to the rejection of claim 13 above.

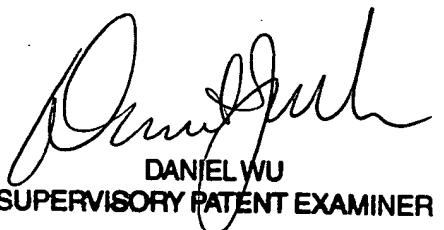
***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hollister et al. [US 6,727,805] disclose multiple tools use for emergency event [see Fig. 1-7], Stein et al. [US 6,317,047], Fagence [US 6,144,309] and Lenz et al. [US 5,850,172]. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son M. Tang whose telephone number is (571)272-2962. The examiner can normally be reached on 4/9 First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel J. Wu can be reached on (571)272-2964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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9/17/05